

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**ALLEN L. McMURRAY, on behalf)
of himself and all other similarly)
situated,)**

Plaintiff(s),)

v.)

FORMEL D,)

Defendant.)

CIVIL ACTION NO.:

2:19-CV-00548-AMM

JOINT MOTION TO STAY THE PRETRIAL DEADLINES

COME NOW Defendant, Formel D (“Defendant”) and Plaintiff Allen L. McMurray, on behalf of himself and all other similarly situated (“Plaintiffs”) and respectfully move the Court enter an Order staying the pretrial deadlines. As grounds therefor, the Parties state as follows:

1. On June 2, 2022, the Court issued its Order Setting Trial, Pretrial Conference, and Pretrial Deadlines. (Doc. 182.) That Order set out a number of pretrial deadlines, including deadlines for the filing of witness and exhibit lists for July 18, 2022.

2. On June 28, 2022, after a day-long mediation with Magistrate Judge Staci Cornelius, the Parties reached an agreement to resolve the litigation.

Thereafter, the Parties focused on drafting a settlement agreement and motion for approval of the settlement.

3. On July 14, 2022, Plaintiffs filed their Unopposed Motion for Approval of Settlement and Supporting Memorandum of Law. (Doc. 200.)

4. The Parties agree that staying the pretrial deadlines would serve the interests of fairness and judicial economy. If Plaintiffs' Unopposed Motion for Approval of Settlement and Supporting Memorandum of Law is granted, the Parties' work preparing and objecting to witness and exhibit lists would be an unnecessary expense, and raises the possibility of court filings associated with pretrial motions which may be a waste of judicial resources.

5. Federal Rule of Civil Procedure 16(d) provides that a court's pretrial order "controls the course of the action unless the court modifies it." Fed. R. Civ. Proc. 16(d). As to *final* pretrial orders, Federal Rule of Civil Procedure 16(e) states that "the court may modify the orders issued after a final pretrial conference only to prevent manifest injustice." Fed. R. Civ. Proc. 16(e).

6. It is unclear whether the Court's order at Doc. 182 constitutes a final pretrial order (such that the higher manifest injustice standard would apply under Fed. R. Civ. Proc. 16(e)). The parties understand that Doc. 182 is not a final pretrial order because its entry preceded the parties' pretrial conference. However, even assuming that the manifest injustice standard applies, the Court has authority to

modify a pretrial order—including a final pretrial order—based on the needs of the case. *See* Discussion, Fed. R. Civ. Proc. 16(e) (“By not imposing any limitation on the ability to modify a pretrial order, the rule reflects the reality that in any process of continuous management, what is done at one conference may have to be altered at the next.”).

7. Because the parties have reached a settlement of the claims in this action, existing pretrial deadlines at Doc. 182 should be stayed to prevent the parties and the Court from exhausting resources in preparing this matter for trial.

Respectfully submitted, this the 18th day of July 2022.

<p><u>s/ Roderick T. Cooks (w/permission)</u> Roderick T Cooks WINSTON COOKS, LLC Two 20th Street North, Suite 1330 Birmingham, AL 35203 205-502-0970 Fax:205-278-5876 rcooks@winstoncooks.com</p> <p>Lee David Winston WINSTON COOKS, LLC 505 20th Street North, Suite 815 Birmingham, AL 35203 205-502-0940 Fax: 205-278-5876 lwinston@winstoncooks.com</p> <p>Charity Gilchrist-Davis LAW OFFICE OF GILCHRIST-DAVIS LLC The TLC Financial Center 505 20th Street North, Suite 815 Birmingham, AL 35203 cgdavis@gilchristdavis.com</p> <p><i>Attorneys for Plaintiffs</i></p>	<p><u>s/ Josh C. Harrison</u> Josh C. Harrison (ASB-3775-O76H) Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 420 20th Street North, Suite 1900 Birmingham, AL 35203-3212 Telephone: (205) 328-1900 Facsimile: (205) 328-6000 josh.harrison@ogletreedeakins.com</p> <p>Thomas A. Bright (pro hac vice) Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 300 North Main Street, Suite 500 Greenville, SC 29601 Telephone: (864) 271-1300 Facsimile: (864) 235-8806 thomas.bright@ogletreedeakins.com</p> <p>Stephen E. Giles (pro hac vice) Employers Law SC, LLC 47 Green Street P.O. Box 1094 Simpsonville, SC 29681 Telephone: (864) 918-2614 steve.giles@employerslawsc.com</p> <p><i>Attorneys for Defendant Formel D</i></p>
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CERTIFICATE OF SERVICE

This is to certify that on this the 18th day of July, 2022, I electronically transmitted the foregoing using the ECF system of filing, which will transmit a Notice of Electronic Filing to the following counsel for Plaintiff:

Lee David Winston
WINSTON COOKS, LLC
505 20th Street North, Suite 815
Birmingham, AL 35203
205-502-0940
Fax: 205-278-5876
lwinston@winstoncooks.com

Roderick T Cooks
WINSTON COOKS, LLC
Two 20th Street North, Suite 1330
Birmingham, AL 35203
205-502-0970
Fax: 205-278-5876
rcooks@winstoncooks.com

Charity Gilchrist-Davis
LAW OFFICE OF GILCHRIST-DAVIS LLC
The TLC Financial Center
505 20th Street North, Suite 815
Birmingham, AL 35203
cgdavis@gilchristdavis.com

s/ Josh C. Harrison
Of Counsel